

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1327 – SB 1382

March 27, 2015

SUMMARY OF ORIGINAL BILL: Authorizes the Administrative Office of the Courts (AOC) to submit its annual report to the General Assembly on the compliance of the courts within the time limits established for capital cases in an electronic format.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (004484): Deletes all language after the enacting clause.

Creates a Class B felony for manufacturing, delivering, selling, or possessing with the intent to manufacture, deliver, or sell (possessing/possession with intent) any substance containing 15 grams or more of fentanyl.

Creates a Class A felony for manufacturing, delivering, selling, or possessing with the intent to manufacture, deliver, or sell (possessing/possession with intent) any substance containing 150 grams or more of fentanyl.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Expenditures – \$174,500 Highest Projected Cost of the Next 10 Years/Incarceration*

Assumptions for the bill as amended:

- Under current law, fentanyl is a Schedule II controlled substance. Manufacturing, delivering, selling, or possessing with intent fentanyl is a Class C felony in any amount up to 200 grams and a Class B felony in any amount 200 grams or more.
- Under the bill, manufacturing, delivering, selling, or possessing with intent fentanyl would be a Class C felony for any amount up to 15 grams, a Class B felony for any amount between 15 and 150 grams, and a Class A felony for any amount over 150 grams.
- The current provision of law making manufacturing, delivering, selling, or possessing with intent fentanyl over 200 grams would no longer apply, because the bill would list fentanyl in Tenn. Code Ann. § 39-17-417(i) and the 200 gram provision applies to controlled substances not listed in Tenn. Code Ann. § 39-17-417(i).

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- Fentanyl is a synthetic opiate analgesic that is more potent than morphine. The Tennessee Bureau of Investigation reports that clandestine labs are producing fentanyl and mixing it with heroin. Their agents have already seen it in a number of cases.
- It is assumed that the bill will result in one admission every two years for fentanyl in an amount between 15 and 150 grams, which will be punished as a Class B felony rather than a Class C felony. It is assumed that the bill will result in one admission every two years for fentanyl in an amount over 150 grams, which will be punished as a Class A felony rather than a Class C felony.
- Population growth and recidivism factors apply, but will not affect the impact due to the low number of admissions affected by the bill.
- The average time served for a Class C felony is 3.18 years, a Class B felony is 5.69 years, and a Class A felony is 15.14 years.
- The bill will result in one admission every two years serving an additional 11.96 years (15.14 years – 3.18 years) for a Class A felony.
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2015 is \$66.03.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender every two years serving an additional 11.96 years (4,368.39 days) for an annualized total of \$144,222 [(\$66.03 x 4,368.39 days) / 2].
- The bill will result in one admission every two years serving an additional 2.51 years (5.69 years – 3.18 years) for a Class B felony.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender every two years serving an additional 2.51 years (916.78 days) for an annualized total of \$30,267 [(\$66.03 x 916.78 days) / 2].
- The total increase in incarceration costs is \$174,489 (\$144,222 + \$30,267).
- The bill will not create any new felony cases, but rather enhances the classification of fentanyl-related cases, which are currently prosecuted as Class C or Class B felonies.
- It is assumed that any impact to the courts, district attorneys, and public defenders can be accommodated within existing resources.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Jeffrey L. Spalding, Executive Director

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